

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICHAEL MCBRIDE, as parent and  
guardian of L.M., a minor child  
Plaintiff,

Case No. 2:16-cv-00754-RSL

vs.

VF OUTDOOR, LLC, a foreign corporation,  
dba LUCY, JOHN DOE, and JOHN DOE  
COMPANY,

ORDER APPOINTING  
SETTLEMENT GUARDIAN AD  
LITEM

*(Proposed)*

Defendants.

The Petition for Appointment of Settlement Guardian ad Litem on behalf of the above-named minor having been filed, the court findings that the facts set forth give the court jurisdiction over this matter and that with guidance of State of Washington Superior Court Rule SPR 98.16W, a Settlement Guardian as Litem or independent attorney is required to investigate and evaluate the proposed settlement; now, therefore,

THE COURT ORDERS:

ORDER APPOINTING OF SETTLEMENT  
GUARDIAN AD LITEM - I  
Case No. C16-754RSL

SCOTT McDONALD  
AND ASSOCIATES, PLLC  
410 Market Street  
Kirkland, WA 98033  
425.822.5700 Fax 425.828.0871

1 A. Settlement Guardian ad Litem Patrick Trudell, Attorney-at-Law, is a person found or  
2 know by the court to be a suitable, disinterested person having the requisite knowledge, training  
3 and expertise to perform the duties required by SPR 98.16W, and is hereby appointed to  
4 represent the interests of the named minor.

5  
6 IMPORTANT MESSAGE FOR SETTLEMENT GUARDIAN AD LITEM:

7 B. Duties. The Settlement Guardian ad Litem shall have the following duties:

8 1. To investigate and evaluate the adequacy of the offered settlement in light of  
9 the needs and best interests of the minor.

10 2. To review written or oral reports from the attorneys, guardians, medical  
11 providers, or others necessary to permit a complete report as required in SPR 98.16W.

12 3. To provide the court with a written report which shall include a description, in  
13 depth appropriate to the magnitude of injuries and the amount offered, of the following  
14 information as a minimum:

15  
16 a. Settlement Guardian ad Litem: State your name, date of  
17 appointment, and the date that you started working on this matter. Give a brief statement of your  
18 experience and qualification as pertain to serving as Settlement Guardian ad Litem, or attach a  
19 C.V. with this information. Describe your relationship, if any, with involved parents, guardians,  
20 insurers, or attorneys.

21  
22 b. Investigation: Describe the investigation you conducted, the  
23 persons interviewed, and the documents you reviewed.

24  
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1 c. Description of Incident and Cause of Action: Describe the incident  
2 and the affected person's legal claims.

3 d. Injuries: Describe the injuries, diagnosis, course of treatment, and  
4 prognosis, attaching a recent supporting medical report or office record.

5 e. Damages: Describe the special and general damages that are  
6 potentially recoverable.

7 f. Liability Issues. Discuss the potential liability of all persons and  
8 entities, including issues of primary negligence, contributory or comparative negligence,  
9 causation and probable chances of recovery.

10 g. Insurance Assets Available to Satisfy Claim. State the nature and  
11 extent of all insurance coverage or assets available to satisfy the claim, whether maintained  
12 through the defendant, the family, or available through government entitlements.

13 h. Liens and Subrogation: Identify all liens, subrogation and  
14 reimbursement claims. Make a recommendation regarding how those claims are to be resolved  
15 including a recommendation regarding retention in any attorney's trust account of the full  
16 amount claimed until final resolution of such claim.

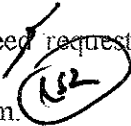
17 i. Other Claims: Identify all other claims arising out of the same  
18 occurrence. State whether another family member has a claim arising out of the same  
19 occurrence, and whether a family member is or could be a plaintiff or defendant in any action  
20 based upon the minor's claim or the occurrence from which it arose.

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ORDER APPOINTING OF SETTLEMENT  
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1 j. Apportionment. Indicate the amount basis, and justification for  
2 allocating the gross settlement to be paid by defendants among the various claimants of the same  
3 family or unrelated claimants, if any. State whether the minor or incapacitated person was  
4 independently represented at the time the proposed apportionment was determined.

5  
6 k. Proposed Settlement: Discuss and evaluate the reasonableness of  
7 the proposed settlement amount, stating the basis of your valuation of the claim. Also discuss  
8 the form the settlement might take (e.g. blocked account, guardianship, structured settlement,  
9 or trust) and the proposed settlement document.

10 l. Expenses and Fees: Discuss and evaluate the reasonableness of the  
11 attorney's fees requested, costs to be reimbursed, and any other deductions from the  
12 proceeds of the claim.   
13

14 m. Disposition of Net Proceeds. Clearly set forth your calculation of  
15 the net proceeds of the claim. Begin with proposed offer and subtract reasonable attorney's  
16 fees and costs, liens and subrogation reimbursement, settlement guardian ad litem fees, etc.

17 Give your reasons and recommendations regarding how the funds should be placed. If  
18 you recommend the use of a blocked account state how the funds shall be transferred into the  
19 blocked account and who is responsible for filing the receipt for the blocked account. If a  
20 legal guardianship is required, state the nominee and the terms that you recommend. If you  
21 recommend a structured settlement, state why that option is preferred, the specific payout  
22 schedule recommended and how it relates to the specific needs of the minor; and a statement  
23 which includes the costs of the structured portion, the interest rate received, the name and  
24

1 financial rating of the structured portion, the interest rate received, the name and financial rating  
2 of the company providing the annuity. If you or any party recommend the creation of a trust as a  
3 recipient of the settlement funds, give your recommendation as to the special needs of the  
4 incapacitated person and how they would be served by the trust; specific provisions that ought to  
5 be included or omitted from the trust document; your nomination of a professional to draft the  
6 trust, and the recommended fee thereof.  
7

8 n. Settlement Guardian ad Litem Fees: Attach a declaration of your  
9 time and services, giving your professional rate and the amounts sought. Indicate whom you  
10 recommend pay these fees and costs.

11 o. Presence at Hearing: State whether the minor or the settlement  
12 guardian ad litem, or any other person(s) should be present at the hearing to approve the  
13 settlement.  
14

15 p. Petition Submitted for Approval in Any Other Jurisdiction: State  
16 whether the Petition for Approval of Settlement has been submitted for approval in any other  
17 jurisdiction.  
18

19 q. Conclusion: Give your recommendation as to the adequacy of the  
20 offered settlement, the application of the proceeds, and the steps to be followed if you  
21 recommend that the settlement not be approved.

22 4. Within forty-five days after appointment, unless otherwise ordered, file a  
23 report with the court and provide a copy to each party, or their counsel, if they are represented.  
24

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1 5. To accomplish all other duties required under SPR 98.16W and any other order  
2 of the court entered herein.

3 C. Defendant will pay up to \$1,000 total, for the cost of bringing this proceeding and  
4 the Settlement Guardian ad Litem's fees.

5  
6 D. Hearing on the settlement guardian ad litem's report will be scheduled at a later  
7 date, if necessary, *NSL*

8 ~~E. A court's working copy of the report shall be delivered no later than 7 days~~  
9 ~~preceding the hearing pursuant to local court rules.~~

10 F. The Settlement Guardian ad Litem shall not employ or retain counsel or experts to  
11 assist in these duties except as authorized in advance by the court, and shall promptly advise the  
12 court if others have retained such a personal without court authorization, including but not  
13 limited to the retention of counsel to initiate litigation or draft a trust.

14  
15 G. The Settlement Guardian ad Litem may seek instruction from the court upon  
16 application and notice to all parties. If any records or portion of the report contains confidential  
17 information which may adversely affect the settlement of the claim if publicized before the trial,  
18 seek appropriate direction from the court.

19  
20 H. The counsel or party requesting this appointment is directed to provide a copy of  
21 this order to the Settlement Guardian ad Litem.

22  
23 I. Other: \_\_\_\_\_  
24  
25

ORDER APPOINTING OF SETTLEMENT  
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1  
2 ORDERED this 8<sup>th</sup> day of June, 2017.

3  
4 Robert Lasnik  
5 Robert Lasnik  
6 United States District Judge

7 Presented by:

8 /s/ Scott A. McDonald  
9 Scott A. McDonald, WSBA #14449  
10 Attorney for Plaintiff  
11 410 Market Street  
12 Kirkland, WA 98033  
13 425-822-5700  
14 email: [scott@scottmcdonaldlaw.com](mailto:scott@scottmcdonaldlaw.com)

15 Approved as to form and notice of presentation waived:

16 /s/ Farron Curry  
17 Farron Curry, WSBA #40559  
18 Attorney for Defendant  
19 Email: [fcurry@schwabe.com](mailto:fcurry@schwabe.com)  
20 1420 5th Avenue, Suite 3400  
21 Seattle, WA 98101-4010  
22  
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24  
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ORDER APPOINTING OF SETTLEMENT  
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